

**ENTERED**

March 23, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CVR ENERGY INC,

Plaintiff,

VS.

AMERICAN ZURICH INSURANCE  
COMPANY, *et al*,

Defendants.

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CIVIL ACTION NO. 4:17-CV-1284

**ORDER ADOPTING MAGISTRATE'S MEMORANDUM AND  
RECOMMENDATION AND DISMISSING CASE**

Pending before the Court is the Memorandum and Recommendation of United States Magistrate Judge Dena Hanovice Palermo. On July 18, 2017, this case was referred to Judge Palermo pursuant to 28 U.S.C. § 636(b)(1)(B). Pending before Judge Palermo, was the defendant's motion to dismiss [DE 7]. On February 12, 2018, Judge Palermo filed a Memorandum and Recommendation recommending that the defendant's motion to dismiss be granted in part and denied in part [DE 26].

Objections have been filed to the Memorandum and Recommendation and the Court reviewed the objections determining that they should be overruled.

Based on the pleadings, the record and the applicable law, the Court finds that there is no plain error apparent from the face of the record. Accordingly, it is hereby determined that that:

- (1) Judge Palermo's Memorandum and Recommendation is APPROVED and ADOPTED in its entirety as the holding of the Court;

(2) The defendant's motion to dismiss is Granted in part and Denied in part;  
and

(3) The case is DISMISSED.

It is so Ordered.

SIGNED on this 23<sup>rd</sup> day of March, 2018.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt  
United States District Judge